

## REMARKS

In the Office action mailed December 5, 2005, the examiner rejects claims 1-4 and 7-13 and restricts claim 14. This reply amends claims 1, 2, 7-10, 13 and 14. As such, claims 1-4 and 7-14 are pending and under consideration.

### I. Interview summary

On March 23, 2006, an interview was held regarding the present application. During the interview, the parties primarily discussed the text "the deliverer" of claims 1 and 13. Specifically, the examiner explained that regarding U.S. Patent Application Publication No. 2002/0,035,515 ("Moreno"), the examiner feels that the combination of the storage location and the party that delivers a package to the storage locker corresponds to "the deliverer" of claim 1.

### II. Response to § 102 rejections

The examiner rejects claims 1-4 and 7-13 under 35 U.S.C. § 102(e) as anticipated by Moreno. These rejections are respectfully traversed.

Claim 1 recites a method that includes "a deliverer" and requesting a recipient to confirm as to whether the recipient approves or rejects delivery of goods by the deliverer to a location associated with the recipient while the recipient is absent from the location. Moreno does not teach or suggest any feature comparable to this feature.

Moreno describes a system for delivering an item to a consumer where a vendor gives the item to a carrier, the carrier delivers the item to a storage locker, then the consumer picks the item up from the storage locker. Contrary to the examiner's assertions, neither the carrier nor the storage locker, viewed individually or together, correspond to the deliverer of claim 1.

Regarding the carrier in Moreno, the carrier always delivers the item to the storage locker regardless of whether the recipient wants the item delivered or not (see paragraph 53, lines 1-3). The carrier never requests the recipient to confirm whether the carrier should deliver the item to the storage locker. Instead, the carrier always assumes the consumer approves delivery of the item to the storage locker. As such, not only does Moreno not teach requesting the recipient to confirm approval or rejection of the delivery while the recipient is absent, but Moreno expressly teaches away from this function by having a carrier always assume that the consumer approves delivery to a storage locker.

Regarding the storage locker in Moreno, this locker also does not correspond to the deliverer of claim 1. In Moreno, the consumer picks up the item from a locker. Thus, when the consumer receives the item, the consumer is always at the location of the locker. In contrast, claim 1 recites requesting the recipient to confirm approval or rejection of a delivery "while the recipient of the delivery goods is absent from the location". Because the process of transferring the item from the locker to the consumer always occurs while the consumer is at the location of the locker, not only does Moreno not teach requesting a delivery while the consumer is absent from the location, but Moreno teaches away from this feature by requiring the consumer to be present at the location of the locker during the transfer from the locker to the consumer.

No other components of Moreno are comparable to the features of claim 1 discussed above. As such, Moreno does not anticipate claim 1.

Moreno does not anticipate claims 2, 7-10, 13, and 14 at least because each of these claims includes a feature similar to a feature discussed above. Moreno does not anticipated claims 3, 4, 11, or 12 at least because each of these claims depends upon an allowable claim

### **III. Response to restriction requirement**

The applicant respectfully traverses the examiner's restriction requirement on the ground that the examiner fails to make a *prima facie* case for restriction. Chapter 800 of the M.P.E.P. articulates what the examiner must do to make a *prima facie* case for restriction.

Every requirement to restrict has two aspects: (A) the reasons (as distinguished from the mere statement of conclusion) why each invention as claimed is either independent or distinct from the other(s); and (B) the reasons why there would be a serious burden on the examiner if restriction is not required . . .

M.P.E.P. § 808.

In the following case, the examiner fails to satisfy aspect (B) because the examiner does not provide any explanation why there would be a serious burden on the examiner if restriction is not required. Regarding aspect (A), section 808.02 of the M.P.E.P. provides a detailed explanation of this aspect. The examiner's explanation that "[n]one of the previous submitted claims require a user to be formally registered" does not satisfy the requirements set forth in this section of the M.P.E.P.

As the examiner fails to provide any explanation that there would be a serious burden on the examiner and fails to provide an adequate explanation of distinctness, the examiner fails to

make a *prima facie* case for a restriction. As such, the applicant respectfully requests the examiner to withdraw the restriction requirement.

#### IV. Conclusion

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

Finally, if there are any formal matters remaining after this response, the examiner is requested to telephone the undersigned to attend to these matters.

If there are any additional fees associated with the filing of this reply, please charge them to Deposit Account No. 19-3935.

Respectfully submitted,

Respectfully submitted,

STAAS & HALSEY LLP

Date: April 3 2006

By: M.J. Henry  
Mark J. Henry  
Registration No. 36,162

1201 New York Avenue, NW, Suite 700  
Washington, D.C. 20005  
Telephone: (202) 434-1500  
Facsimile: (202) 434-1501